

IN SENATE OF THE UNITED STATES.

JANUARY 11, 1848.

Submitted, and ordered to be printed.

Rr. Rusk made the following

REPORT :

[To accompany bill S. No. 73.]

*The Committee on the Post Office and Post Roads, to whom was referred the petition of Jones and Boker, report:*

That Andrew Campbell, late of the State of Arkansas, now deceased, on the 29th day of March, 1843, deposited in the post office, at Van Buren, in said State of Arkansas, a letter directed to the petitioners, Jones and Boker, of Philadelphia, containing several treasury notes, viz: one note for five hundred dollars, letter B, No. 3,875, dated May 20, 1842, and made payable to J. R. Anderson; also, five treasury notes for one hundred dollars each, as follows: letter B, No. 21,020, dated 30th September, 1842, and payable to J. P. Davis; letter C, No. 21,387, dated 23d November, 1842, and payable to J. P. Davis; letter A, No. 21,406; letter B, No. 21,407; letter C, No. 24,408—all the last three dated the 23d November, 1842, and payable to E. B. Alexander. Also, two notes for fifty dollars each—letter A, No. 36,409, and letter B, No. 36,410—both dated December 1, 1842, and payable to William Armstrong, making in all eleven hundred dollars. Said notes were a remittance made by said Campbell to the petitioners of moneys collected by him for the petitioners. The deputy postmaster at Van Buren gave a receipt to said Campbell for said treasury notes, and describing them, when he deposited the letter in the post office at Van Buren. The letter of said Andrew Campbell containing said treasury notes was never received by the petitioners. The letter, as is stated by the then deputy postmaster at Van Buren, was made up and mailed with others in a packet, and directed eastward, for distribution at Louisville, Kentucky; but was feloniously withdrawn from the mail at Fayetteville, in said State of Arkansas, by Charles Botsford, in the month of April, 1843, he then being an assistant to the deputy postmaster at said Fayetteville, and as such, entrusted with receiving and making up mails; and afterwards, on the 13th day of July, 1844, said Bots-

ford was arraigned and tried before the district court of the United States for the district of Arkansas, for feloniously taking and stealing the letter containing the aforesaid treasury notes, and other letters, and was duly convicted of said crime, and sentenced to imprisonment in the penitentiary for fifteen years. On being satisfied that the letter containing said treasury notes had been lost or stolen, the petitioners published an advertisement, or notice of the loss of said notes, containing a description of them, and sent it to the principal government agencies authorized to redeem them, and to the principal brokers in Boston, New York, Philadelphia, Baltimore, and New Orleans.

It further appears that these treasury notes were altered by changing their numbers, by said Botsford, or some other person; and, after they were so altered, were presented—by whom it does not seem to be known—to the Bank of America, in the city of New York, then acting as the fiscal agent of the treasury, and paid by said bank in behalf of the United States, the notes being endorsed in blank by the persons to whom they were then made payable.

The question in the case is, whether the redemption or payment of these notes by the Bank of America, as the agent of the United States, after they had been forged and altered, was a legal and proper payment, which bars the claim of the petitioners, as the owners of the original notes, or a payment by the bank, without authority, and in its own wrong. The committee are of the opinion that the payment was unauthorized and improper. The notes had been altered and forged, which rendered them of no validity, even in the hands of an innocent holder, and no justification of the money paid to redeem them. They were void in law, and the case, therefore, seems to be the same as though the notes had been actually destroyed, wrongfully, by some person not the lawful owner of them; in which case the owner would clearly have an equitable, if not a legal claim on the United States for the amount. And, in this case, it may be said that the original notes, issued by the United States, have not been paid, as the notes that were redeemed were different notes, and, being created by forgery, were void, and constituted no authority for the payment made upon them. The alteration of the original notes by forging was, in a legal sense, a destruction of them; and this having been wrongfully done, without any fault of the owners, the act of their destruction did not take away the claim they had upon the United States; nor is their claim lost, by the fact of the United States having paid the amount of the notes, as it was done without legal authority, and from the want of proper caution and vigilance. The committee, therefore, report a bill for the relief of the petitioners.